

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION

Case No. 00-06020-CIV FERGUSON/SNOW

STACY WHEELER,

Plaintiff,

V.

DR. MOHSIN JAFFER,

Defendant.

DEFENDANT'S EMERGENCY MOTION FOR PROTECTIVE ORDER

Defendant, Dr. Moshin Jaffer, by and through his counsel, Phillips, Richard, Rind & Navarrete, P.A.. files this Emergency Motion for Protective Order and in support thereof states the following:

1. Over certificate of service dated December 8, 2000, the Plaintiff noticed seven (7) depositions. They were scheduled over a three (3) day period, on December 19, 20 and 21, 2000. The Plaintiff did so unilaterally without first clearing the dates with counsel for the Defendant. On December 12, 2000, counsel for the Defendant faxed a letter to Plaintiff's counsel informing her that due to scheduling conflicts the depositions would have to be rescheduled, and asking her to please clear dates with the undersigned before rescheduled the depositions.

2. Plaintiff's counsel agreed to reschedule the depositions and contacted the office of the undersigned for some alternative dates. Plaintiff's counsel was given the dates of January 8, 9 and 10, 2001 as available dates.

3. Over certificate of service dated December 15, 2000. Plaintiff rescheduled the depositions for January 10, 11 and 12, 2001. Three depositions are scheduled for January 10,

2001: two depositions are scheduled on January 11, 2001; and two depositions are scheduled for January 12, 2001.

4. Counsel for the Defendant informed Plaintiff's counsel that while the 10th was one of the dates previously given as an available date, the 11th and 12th were not. Defendant's counsel informed Plaintiff's counsel that she has a conflict on those dates. Defendant's counsel is currently scheduled to be at a pre-trial conference at the South Dade Justice Center on January 11, 2001 in the morning, and at a pre-arbitration meeting in the afternoon. In addition, counsel for the Defendant is scheduled to attend another pre-arbitration meeting on the January 12, 2001.

5. Defendant's counsel has informed Plaintiff's counsel of these conflicts, but Plaintiff's counsel refuses to reschedule the depositions currently set for January 11 and 12, 2001.

Plaintiff's counsel states that her secretary informed her that this office offered the dates of January 10, 11 and 12, 2001 for the taking of the depositions. Plaintiff's counsel's secretary is incorrect. As stated above, January 8, 9 and 10 were offered not the 10th through the 12th.

6. Despite informing Plaintiff's counsel of the conflicts, and despite the apparent miscommunication regarding the available dates during the week of January 8, 2001, Plaintiff's counsel refuses to reschedule the depositions and has stated that in order to get relief Defendant must file a motion with this court. Plaintiff will not be prejudiced in any manner if the depositions are rescheduled. Defendant has requested alternative dates from the Plaintiff on which to reschedule the depositions currently set for January 11 and 12, 2001, but the Plaintiff has failed to provide any. The Plaintiff lacks any reasonable bases on which to oppose the rescheduling of some of the depositions, and has forced the Defendant to file a motion for protective order in order to force the expenditure of unnecessary attorney's fees.

WHEREFORE, based on the foregoing, the Defendant respectfully requests that the court issue a protective order prohibiting the taking of the depositions currently scheduled for January 11 and 12, 2001 (the depositions scheduled for January 10, 2001 do not need to be rescheduled), and further requests that the Defendant be awarded reasonable costs and fees for the preparation of this Motion given the Plaintiff's lack of any reasonable bases on which to oppose the rescheduling of some of the depositions.

Respectfully Submitted,

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NAVARRETE, P.A.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was sent by U.S Mail to Nanci S. Landy, Esq., Altchul, Landy & Collier, P.A., 2700 South Commerce Parkway, Suite 305, Weston, Florida 33331, this 29th day of December 2000.

BY: Osnat R
Osnat K. Rind